

LICENSURE OF YOUTH CARE 37.97.805
FACILITIES
Subchapter 8
Youth Shelter Care

37.97.801 YOUTH SHELTER CARE: RELATIONSHIP TO YOUTH CARE

FACILITY LICENSURE (1) A provider of substitute care in the form of shelter care may be licensed as a youth shelter care facility as defined in ARM 37.97.102 and pursuant to the requirements of ARM 37.97.801 through 37.97.843. Licensure as a youth shelter care facility may be in lieu of licensure as a youth foster care home, youth group home, or child care agency.

(History: Sec. 41-3-1103, 41-3-1142 and 52-2-111, MCA; IMP, Sec. 41-3-1142, and 52-2-113, MCA; NEW, 1998 MAR p. 489, Eff. 2/13/98; TRANS, from DFS, 1998 MAR p. 663.)

Rules 02 through 04 reserved

37.97.805 YOUTH SHELTER CARE: ADMINISTRATION (1) A youth shelter care facility shall be a nonprofit or for profit corporation registered under the laws of Montana or under direct administration of a unit of state, local or tribal government.

(2) The provider shall have established policy and sound plans of organization and administration clearly defining legal responsibility, administrative authority and responsibility for services to the residents and community.

(3) The provider shall have written policy for personnel, admission, discharge, program and financial records. The policy shall be furnished to the department with the initial license application and annually thereafter.

(4) The provider shall have written position descriptions for all employees which include a description of duties, responsibilities, limitations of authority and principal measures of accountability and performances.

(History: Sec. 41-3-1103, 41-3-1142 and 52-2-111, MCA; IMP, Sec. 41-3-1142 and 52-2-113, MCA; NEW, 1998 MAR p. 489, Eff. 2/13/98; TRANS, from DFS, 1998 MAR p. 663.)

Rules 06 through 08 reserved

37.97.809 YOUTH SHELTER CARE: PROGRAM REQUIREMENTS, CARE AND GUIDANCE

(1) The program of all youth shelter care facilities shall include the following:

- (a) ongoing appropriate maintenance of the facility;
- (b) appropriate personal care, supervision, and attention;
- (c) provision of opportunities for educational, social and cultural growth through suitable reading materials, toys, activities and equipment; and
- (d) provision of opportunities for associations with peer groups and for experiences in school and community.

(2) The facility shall ensure the following practices:

- (a) cooperation with the placing agency and participation in case conferences; and
- (b) cooperation with the placing agency in arranging for contact with each youth's own family when appropriate.

(3) The provider shall encourage youth to continue any socially appropriate activities, classes or participation in clubs or groups. Each youth shall be allowed to become voluntarily involved in community programs that meet his or her needs, interests and abilities.

(History: Sec. 41-3-1103, 41-3-1142 and 52-2-111, MCA; IMP, Sec. 41-3-1142 and 52-2-113, MCA; NEW, 1998 MAR p. 489, Eff. 2/13/98; TRANS, from DFS, 1998 MAR p. 663.)

37.97.810 YOUTH SHELTER CARE: PROGRAM REQUIREMENTS,

NUTRITION (1) The provider shall serve three regular, well balanced meals per day and snacks appropriate to the nutritional needs of the youth and shall include the four basic food group requirements.

(2) Special diets shall be provided for residents as ordered in writing by a physician. Such orders shall be kept on file at the facility.

(3) Copies of menus as served shall be kept on file for one month and shall be available for inspection.

(4) All food shall be transported, stored, covered, prepared and served in a sanitary manner.

(5) Use of home canned products, other than jams, jellies and fruits is prohibited unless the youth shelter care facility has been commercially approved.

(6) Hands shall be washed with warm water and soap before the handling of food.

(History: Sec. 41-3-1103, 41-3-1142 and 52-2-111, MCA; IMP: Sec. 41-3-1142 and 52-2-113, MCA; NEW, 1998 MAR p. 489, Eff. 2/13/98; TRANS, from DFS, 1998 MAR p. 663.)

37.97.811 YOUTH SHELTER CARE: PROGRAM REQUIREMENTS,

EDUCATION (1) The provider shall assure that each youth is offered an appropriate educational program and shall make a reasonable effort to comply with compulsory school attendance laws.

(History: Sec. 41-3-1103, 41-3-1142 and 52-2-111, MCA; IMP: Sec. 41-3-1142, and 52-2-113, MCA; NEW, 1998 MAR p. 489, Eff. 2/13/98; TRANS, from DFS, 1998 MAR p. 663.)

Rules 12 through 14 reserved

37.97.815 YOUTH SHELTER CARE: PROGRAM REQUIREMENTS, RELIGION

AND CULTURE (1) All youth in the shelter care facility shall have reasonable opportunity to practice their respective religions. Youth shall be permitted to attend religious services of their choice in the community and to receive visits from representatives of their respective faiths.

(2) The provider shall give encouragement and opportunity to each youth to identify with his or her cultural heritage.

(History: Sec. 41-3-1103, 41-3-1142 and 52-2-111, MCA; IMP, Sec. 41-3-1142 and 52-2-113, MCA; NEW, 1998 MAR p. 489, Eff. 2/13/98; TRANS, from DFS, 1998 MAR p. 663.)

37.97.816 YOUTH SHELTER CARE: PROGRAM REQUIREMENTS,

PERSONAL NEEDS (1) The provider shall assure that each youth has his or her own clothing suitable to the youth's age and size and comparable to the clothing of other youth in the community.

- (2) Youth shall have some choice in the selection of their clothing.
- (3) The provider shall train youth in personal care, hygiene, and grooming and shall provide each youth with the necessary supplies.

(History: Sec. 41-3-1103, 41-3-1142 and 52-2-111, MCA; IMP, Sec. 41-3-1142 and 52-2-113, MCA; NEW, 1998 MAR p. 489, Eff. 2/13/98; TRANS, from DFS, 1998 MAR p. 663.)

37.97.817 YOUTH SHELTER CARE: PROGRAM REQUIREMENTS, PRIVACY AND INDIVIDUALISM

- (1) The provider shall allow youth to have privacy.
- (2) The provider shall provide a separate bed, separate storage space for clothing and personal articles, and a place for each youth to display his or her socially appropriate creative works and symbols of identity.
- (3) Each youth shall be provided with access to a quiet area where he or she can be alone when appropriate.

(History: Sec. 41-3-1103, 41-3-1142 and 52-2-111, MCA; IMP, Sec. 41-3-1142 and 52-2-113, MCA; NEW, 1998 MAR p. 489, Eff. 2/13/98; TRANS, from DFS, 1998 MAR p. 663.)

Rules 18 and 19 reserved

37.97.820 YOUTH SHELTER CARE: PROGRAM REQUIREMENTS,

SEARCHES (1) The provisions of this rule apply to all searches by shelter care facilities of youth and their personal property, including searches of personal correspondence.

- (2) There must be reasonable cause for any search.
- (3) Any correspondence search shall be conducted in the presence of the youth.
- (4) The shelter care facility shall adopt policy relating to searches, including pat down searches, personal property searches and correspondence searches. The policy must include protocol for conducting personal property searches when the youth is not available to be present for the search. The policy must also require that the events of each search are documented in writing.
- (5) No youth shall be subjected to any of the following intrusive acts:
 - (a) strip searches;
 - (b) body cavity searches;
 - (c) video surveillance; or
 - (d) routine opening of personal correspondence.
- (6) No youth shall be subject to urinalysis testing unless the testing has been ordered by a court or is required pursuant to a treatment plan for monitoring drug or alcohol use. The following requirements must also be met by shelter care facilities utilizing urinalysis testing:
 - (a) prior to any testing, the provider shall adopt policy which addresses, at a minimum, procedures for obtaining samples for urinalysis testing; and
 - (b) staff shall document compliance with facility policy in connection with each testing.

(History: Sec. 41-3-1103, 41-3-1142 and 52-2-111, MCA; IMP, Sec. 41-3-1142 and 52-2-113, MCA; NEW, 1998 MAR p. 489, Eff. 2/13/98; TRANS, from DFS, 1998 MAR p. 663.)

37.97.821 YOUTH SHELTER CARE: PROGRAM REQUIREMENTS, MONEY

- (1) Money earned by a youth or received as a gift or allowance shall be his or her personal property and accounted for separately from youth shelter care facility funds.
- (2) If the youth shelter care facility is partly supported by institutional production on a commercial basis, compliance with child labor laws and minimum wage laws must be assured.

(History: Sec. 41-3-1103, 41-3-1142 and 52-2-111, MCA; IMP, Sec. 41-3-1142 and 52-2-113, MCA; NEW, 1998 MAR p. 489, Eff. 2/13/98; TRANS, from DFS, 1998 MAR p. 663.)

37.97.822 YOUTH SHELTER CARE: PROGRAM REQUIREMENTS, TRAINING AND EMPLOYMENT

- (1) For youth age 16 and older:
- (a) the provider shall assist in preparing youth for economic independence; and
- (b) the provider shall assist youth in obtaining the skills necessary for employment as determined to be appropriate to meet the individual's needs (i.e., completing applications, personal appearance, attitude toward employment, interviewing for jobs).
- (2) The provider must distinguish between tasks which youth are expected to perform as part of living together, jobs to earn spending money, and jobs performed for vocational training. Youth in care shall not be used as employees of the youth shelter care facility without prior approval of the department.

(History: Sec. 41-3-1103, 41-3-1142 and 52-2-111, MCA; IMP, Sec. 41-3-1142 and 52-2-113, MCA; NEW, 1998 MAR p. 489, Eff. 2/13/98; TRANS, from DFS, 1998 MAR p. 663.)

Rules 23 and 24 reserved

37.97.825 YOUTH SHELTER CARE: PROGRAM REQUIREMENTS,

- DISCIPLINE** (1) Each youth shelter care facility shall have a written policy for the discipline of youth. Copies shall be made available to all provider staff, referring parties, parents and the youth and shall include the philosophy of discipline, methods of discipline permitted, behavioral expectations of youth, and the purpose of discipline as it relates to the ongoing learning and developmental process.
- (2) Discipline must not be physically or emotionally damaging.
- (3) There must be no cruel, harsh, or unusual punishment.
- (4) Verbal abuse of a youth is prohibited.
- (5) No youth of any age shall be shaken or hit.
- (6) Youth must not be denied meals, mail or contact with their families as punishment.
- (7) No disciplinary practices of any sort shall be employed which are humiliating or degrading to the youth or which undermine the youth's self-respect.
- (8) Medication shall never be used to discipline or threaten youth.
- (9) Any staff person involved in or witnessing an infraction of this rule shall complete an incident report clearly detailing the events of the infraction. The report must be completed within 24 hours of the infraction.
- (10) A copy of the incident report shall be placed in the youth's file and the incident shall be reported to the department for investigation within one working day of its occurrence.
- (11) An investigation of the incident may be conducted by the department.
- (12) A complete report of any investigation conducted by the youth shelter care facility shall be placed in the provider's records and shall be available for inspection by the

department and the youth's placing agency.

(History: Sec. 41-3-1103, 41-3-1142 and 52-2-111, MCA; IMP, Sec. 41-3-1142 and 52-2-113, MCA; NEW, 1998 MAR p. 489, Eff. 2/13/98; TRANS, from DFS, 1998 MAR p. 663.)

Rules 26 through 29 reserved

37.97.830 YOUTH SHELTER CARE: PROGRAM REQUIREMENTS, YOUTH ORIENTATION

(1) Each youth shelter care facility shall have a written orientation policy for admission to the facility, including:

- (a) a procedure for ensuring that each youth receives a personal orientation to the facility and program as soon as appropriate but not later than 12 hours after admission;
- (b) inventory of each youth's belongings;
- (c) behavioral expectations;
- (d) privilege systems;
- (e) health and safety procedures;
- (f) house rules;
- (g) intrusive measures;
- (h) documentation that is signed by both the youth and the staff person(s) conducting the orientation and a copy placed in the youth's file; and
- (i) emergency evacuation procedures, including escape routes.

(History: Sec. 41-3-1103, 41-3-1142 and 52-2-111, MCA; IMP, Sec. 41-3-1142 and 52-2-113, MCA; NEW, 1998 MAR p. 489, Eff. 2/13/98; TRANS, from DFS, 1998 MAR p. 663.)

37.97.831 YOUTH SHELTER CARE: PHYSICAL CARE

(1) Each youth shelter care facility shall have access to the services of at least one physician.

(2) Medical, dental, psychiatric, psychological care and counseling services shall be obtained for youth as needed.

(3) If a youth has not received a complete physical examination within 6 months prior to placement, the provider shall take steps to arrange for the youth to have a complete physical examination.

(4) If a youth has not had a dental examination within a year prior to placement, the provider shall take steps to arrange for the youth to have a dental examination. All necessary dental work shall be completed as needed.

(5) Provisions for treatment of diseases, remedial defects or deformities, and malnutrition shall be made by the provider immediately upon the physician's recommendation with notification to the placing agency.

(6) All medication shall be kept in their original containers in a locked place identified with the original prescription label.

(7) Administration of all medications per time of day, dosage, staff person administering the medication and recipient of the medication shall be logged in ink. These records shall be kept in or near the locked storage area.

(8) Providers shall promptly dispose of all non-administered prescription medications.

(9) The provider shall have written policy for the administration of both prescription and nonprescription medications. The policy shall include procedures for the disposal of non-administered, expired, or discontinued medications.

(History: Sec. 41-3-1103, 41-3-1142 and 52-2-111, MCA; IMP, Sec. 41-3-1142 and 52-2-113, MCA; NEW, 1998 MAR p. 489, Eff. 2/13/98; TRANS, from DFS, 1998 MAR p. 663.)

37.97.832 YOUTH SHELTER CARE: ENVIRONMENT (1) A youth shelter care facility shall comply with the environmental requirements set forth in ARM 37.97.508.

(History: Sec. 41-3-1103, 41-3-1142 and 52-2-111, MCA; IMP, Sec. 41-3-1142 and 52-2-113, MCA; NEW, 1998 MAR p. 489, Eff. 2/13/98; TRANS, from DFS, 1998 MAR p. 663.)

37.97.833 YOUTH SHELTER CARE: FIRE SAFETY (1) Smoke detectors shall be located at stairways and adjacent to all sleeping areas.
(2) A fire extinguisher approved by a recognized testing laboratory with a minimum rating of 2A10BC shall be readily accessible to the kitchen area.
(3) The date and signature of the person checking both the batteries in the smoke detector and the fire extinguisher shall be documented and on file at the youth shelter care facility.
(4) Smoke detector batteries shall be checked by the provider at least once each month and the batteries replaced at least once each year.
(5) Fire extinguishers shall be checked by the provider at least quarterly.
(6) The staff shall be trained in the proper use of the fire extinguisher and the training recorded in the provider's records.
(7) Staff and residents shall be instructed in the procedure for evacuation in case of fire as required in ARM 37.97.830 and 37.97.838. The procedure must be posted in a conspicuous place in the youth shelter care facility.
(8) All exits must be clear and unobstructed at all times.
(9) Paint, flammable liquids and other combustible material must be kept in locked storage away from heat sources or in locked outbuildings not used by youth.

(History: Sec. 41-3-1103, 41-3-1142 and 52-2-111, MCA; IMP, Sec. 41-3-1142 and 52-2-113, MCA; NEW, 1998 MAR p. 489, Eff. 2/13/98; TRANS, from DFS, 1998 MAR p. 663.)

Rules 34 and 35 reserved

37.97.836 YOUTH SHELTER CARE: TRANSPORTATION (1) Staff and volunteers transporting youth shall be at least 18 years old and possess a valid Montana driver's license.
(2) All vehicles used by the facility to transport youth shall have proof of liability insurance.
(3) With the exception of public transportation or rented or leased buses which are not required by law to be equipped with safety restraints, no vehicle shall begin moving until all passengers are seated and secured in age appropriate safety restraints, which must remain fastened at all times the vehicle is in motion.
(4) The back of pickup trucks shall not be used to transport any youth.

(History: Sec. 41-3-1103, 41-3-1142 and 52-2-111, MCA; IMP, Sec. 41-3-1142 and 52-2-113, MCA; NEW, 1998 MAR p. 489, Eff. 2/13/98; TRANS, from DFS, 1998 MAR p. 663.)

37.97.837 YOUTH SHELTER CARE: GUNS AND AMMUNITION

(1) Guns, including air rifles and/or ammunition must not be kept in a youth shelter care facility.

(History: Sec.41-3-1103, 41-3-1142 and 52-2-111, MCA; IMP, Sec. 41-3-1142, and 52-2-113, MCA; NEW, 1998 MAR p. 489, Eff. 2/13/98; TRANS, from DFS, 1998 MAR p. 663.)

37.97.838 YOUTH SHELTER CARE: STAFF (1) Houseparents, relief houseparents and other child care staff must meet the general requirements for child care staff set out in ARM 37.97.132.

(2) The provider shall establish minimum qualifications for child care staff and adopt a procedure for screening applicants.

(3) The youth shelter care facility program must have a minimum of one designated staff person who shall be responsible for the administration and management of the facility, including the supervision of the services provided to youth in placement. Any staff person designated under this subsection hired after the effective date of this rule shall also have the following qualifications:

(a) a bachelor's degree from an accredited college or university in behavioral or social services; and

(b) at least 2 years of direct work experience in youth services.

(4) Within the first 30 days of the date of hire, all child care staff must receive a minimum of 16 hours of orientation.

(5) The provider shall establish orientation policy with the following minimum requirements:

(a) prior to assuming any duties as a regular child care staff member, each new staff member shall receive training covering:

(i) the provider's policy, procedures and program;

(ii) mandatory child abuse reporting laws;

(iii) crisis intervention methodologies;

(iv) fire safety, including facility evacuation routes; and

(v) confidentiality.

(b) within the first 7 days of the date of hire and prior to being the sole child care staff on duty with any youth, the employee shall receive training covering:

(i) the provider's response plan for critical behavioral and medical incidents; and

(ii) suicide prevention.

(c) within the first 30 days of the date of hire and prior to being the sole child care staff on duty, the employee shall receive training in CPR and first aid.

(i) all staff certified in CPR shall receive annual CPR training.

(d) in their first year of employment, child care staff shall attend 14 hours of training in addition to their participation in employee orientation. All other child care staff shall attend a minimum of 20 hours of training per year. Training shall be relevant to the child care staff person's responsibilities in the youth shelter care facility.

(6) Participation in all orientation and training shall be documented in the employee's personnel file.

(7) The resident to staff ratio on the premises shall not be more than 8:1 throughout a 24-hour period. At least one child care staff person shall provide awake coverage during designated sleep hours.

(8) There shall be a minimum of one child care staff person present who is directly responsible for resident care and activities when any resident is in the home.

(History: Sec. 41-3-1103, 41-3-1142 and 52-2-111, MCA; IMP, Sec. 41-3-1142 and 52-2-113, MCA; NEW, 1998 MAR p. 489, Eff. 2/13/98; TRANS, from DFS, 1998 MAR p. 663.)

Rules 39 through 41 reserved

37.97.842 YOUTH SHELTER CARE: PLACEMENT AGREEMENTS

(1) The provider shall enter a placement agreement with the placing agency within 5 working days of the youth's admission.

(2) The placement agreement shall set forth the terms of the youth's placement and the responsibilities of the provider, the placing agency and, when appropriate, the parents.

(History: Sec. 41-3-1103, 41-3-1142 and 52-2-111, MCA; IMP, Sec. 41-3-1142 and 52-2-113, MCA; NEW, 1998 MAR p. 489, Eff. 2/13/98; TRANS, from DFS, 1998 MAR p. 663.)

37.97.843 YOUTH SHELTER CARE: CASE RECORDS (1) The provider shall maintain a written case record for each youth which shall include, at a minimum, the following:

- (a) name and sex of the youth;
- (b) date of admission and placing agency; and
- (c) educational data from the time of admission until the time the youth leaves the youth shelter care facility;
- (d) date of discharge, reason for discharge and the name, telephone number and address of the person or agency to whom the youth was discharged; and
- (e) the name, address and telephone number of the parent(s) or guardian of the youth.

(2) If available, each youth's case record shall include:

- (a) the birthdate and birthplace of the youth;
- (b) if the youth was not living with his parents prior to admission, the name, address, telephone number and relationship to the youth of the person with whom the youth was living; and
- (c) the youth's social security number.

(3) Within 72 hours of the youth's placement, the provider shall take steps to obtain the following:

- (a) all documents related to the referral of the youth to the facility as provided by the placing agency;
- (b) documentation of the current custody and legal guardianship as provided by the placing agency;
- (c) youth's court status, if applicable;
- (d) a copy of the youth's birth certificate or a written statement of the youth's birth date including the source of this information;
- (e) consent forms signed by the parents or guardian prior to the youth's admission to the youth shelter care facility allowing the provider to authorize all necessary medical care, routine tests, immunization and medical or surgical treatment;
- (f) cumulative health records including medical history and immunization records as provided by the placing agency;
- (g) dental records;

- (h) education records and reports; and
- (i) treatment or clinical records and reports.
- (4) An initial assessment of the youth's emotional, medical, developmental, social and behavioral status shall be conducted within 8 hours of the youth's admission.
- (5) A case plan shall be initiated within 3 days for any youth whose projected stay is anticipated to be longer than 1 week. At a minimum the case plan shall include:
 - (a) the projected length of the youth's stay;
 - (b) a plan for assessing and addressing critical needs;
 - (c) a day program plan for youth who will not be enrolled in the school system;
 - (d) an immediate needs assessment and assigned responsibilities; and
 - (e) a plan for the youth's transition out of placement.

(History: Sec. 41-3-1103, 41-3-1142 and 52-2-111, MCA; IMP, Sec. 41-3-1142 and 52-2-113, MCA; NEW, 1998 MAR p. 489, Eff. 2/13/98; TRANS, from DFS, 1998 MAR p. 663.)

Subchapter 9 reserved